

IN RE: : CASE NO: 21-13177-pmm  
Dennis J. Miller, Sr. :  
Debtor : CHAPTER 13

**DEBTOR'S OBJECTION TO PROOF OF CLAIM OF M&T BANK**  
**(PROOF OF CLAIM NO. 10-1)**

Debtor, Dennis J. Miller, Sr., by and through his counsel, Burke & Hess, hereby files this Objection to the Proof of Claim of M&T Bank, (Proof of Claim No. 10-1), and in support thereof aver as follows:

1. The Respondent, M&T Bank filed a Proof of Claim on February 3, 2022 to docketed as Claim 10-1.
2. The proof of claim set forth an arrearage of \$27,749.87.
3. The Mortgage was successfully modified, however, M&T Bank claimed that their counsel, KML Law Group, would not file the Motion to Approve the Modification.
4. Because the case was up for dismissal due to delay, the undersigned, counsel to the Debtor, filed the Motion to Approve the Modification. This is a step that counsel for the Debtor typically does not undertake as it is generally the counsel for the Mortgagee that performs this task.
5. The Modification was approved, the plan is in a state where it should be confirmed so that the unsecured creditors can begin receiving payments; however, it cannot be confirmed because the Respondent, M&T Bank, will not withdrawal their Objection to Confirmation.
6. The Objection to Confirmation filed by M&T Bank's counsel is based on not paying the arrearage. However, there is no arrearage pursuant to the modification.
7. The undersigned has reached out to counsel for M&T Bank on many, many, many, occasions, but has not received the courtesy of a response. They just do nothing, but because their Objection sits on the record, the Confirmation cannot be obtained.
8. Concurrent with the filing of this Objection to Proof of Claim, Debtor is contemporaneously filing a Motion for Sanctions for the failure of M&T Bank's counsel to act. Their behavior has caused a great deal of extra expense to the Debtor's Estate, time for the Court, and is just unprofessional. Debtor believes entry of a monetary sanction will encourage Attorney Brian Nicholas of the KML Law Group to act in a more diligent and responsive manner in the future.
9. Debtor is also expecting to conduct discovery in the form of a Records Deposition and Deposition of Party Representative and to that end will be seeking a Discovery Deadline Order.

WHEREFORE, Debtor requests that the Proposed Claim of M&T Bank be disallowed in its entirety, that the KML Law Group reimburse counsel fees to Debtor's Counsel in the amount of Five Hundred Dollars (\$500.00), and that a proposed Discovery Deadline Order be entered in this matter.

Respectfully submitted,

Burke & Hess

Dated: October 26, 2022

By: /s/ Michael D. Hess  
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